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WELLS FARGO BANK, N.A.
8 (sued herein individually and as America's
Servicing Company)
9

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12

13 ORIANA PARKS, an individual,
14 Plaintiff,
15 v.

16 WELLS FARGO BANK, NATIONAL
ASSOCIATION, a California
17 corporation; AMERICA'S
SERVICING COMPANY, a division of
18 Wells Fargo Bank; and
DOES 1 through 10,
19 Defendants.
20

Case No. 2:19-cv-00588 JFW (RAOx)
(Removed from Los Angeles Superior
Court, Case No. 18VECV00353)

**FIRST AMENDED STIPULATED
PROTECTIVE ORDER AND
ORDER THEREON**

Magistrate Judge Rozella A. Oliver
Courtroom 590, 5th Floor

1 Plaintiff Oriana Parks (“Parks”), on the one hand, and Defendants Wells
2 Fargo Bank, N.A. (“Wells Fargo”), Xome Field Services, LLC (“Xome”), and
3 ServiceLink NLS, LLC (“ServiceLink”), on the other, through their respective
4 counsel of record, hereby stipulate and jointly move for entry of the [Proposed]
5 Stipulated Protective Order, attached hereto. Parks, Wells Fargo, Xome and
6 ServiceLink shall sometimes collectively be referred to herein as the “Parties.”¹

7 IT IS HEREBY STIPULATED by the Parties, by and through their respective
8 attorneys of record and pursuant to Fed. R. Civ. P. 26(c)(7) and 29, that discovery of
9 confidential information shall be had on the following terms and conditions:

10
11 **STIPULATED PROTECTIVE ORDER**

12
13 **A. PURPOSES AND LIMITATIONS**

14 Discovery in this action is likely to involve production of confidential,
15 proprietary or private information for which special protection from public
16 disclosure and from use for any purpose other than prosecuting this litigation or
17 related indemnity claims against any party to this litigation may be warranted.
18 Accordingly, the Parties hereby stipulate to and petition the Court to enter the
19 following Stipulated Protective Order. The Parties acknowledge that this Order
20 does not confer blanket protections on all disclosures or responses to discovery and
21 that the protection it affords from public disclosure and use extends only to the
22 limited information or items that are entitled to confidential treatment under the
23 applicable legal principles.

24
25
26 ¹ The Parties note that this First Amended Protective Order is substantively
27 identical to the one previously entered by this Court (ECF No. 35), with the
28 only notable change being the additions of Xome and ServiceLink as
signatories to the Order.

1 **B. GOOD CAUSE**

2 Pursuant to FED. R. CIV. P. 26(c)(7), good cause exists for entry of this
3 Protective Order because the Parties to this action (1) either have sought or might
4 seek the discovery of certain information in this action that the Parties believe is
5 sensitive or confidential, (2) believe that unrestricted disclosure or dissemination of
6 such information could violate their right to financial privacy or cause them business
7 or commercial injury, (3) desire an efficient and practicable means to designate such
8 information as confidential and control its disclosure or dissemination, and (4) have
9 agreed to such means as set forth herein. Specifically, this action involves a dispute
10 concerning a mortgage loan serviced by Wells Fargo and property maintenance
11 allegedly performed by Xome and ServiceLink that will likely require the
12 production of personally identifiable information of Parks; the financial information
13 of Parks; and confidential, non-public, and/or trade secret information of Wells
14 Fargo, Xome and/or ServiceLink.

15
16 **C. ACKNOWLEDGEMENT OF PROCEDURES FOR FILING UNDER**
17 **SEAL**

18 The Parties further acknowledge that this Stipulated Protective Order does not
19 entitle them to file confidential information under seal; Local Civil Rule 79-5 sets
20 forth the procedures that must be followed and the standards that will be applied
21 when a party seeks permission from the court to file material under seal.

22 There is a strong presumption that the public has a right of access to judicial
23 proceedings and records in civil cases. In connection with non-dispositive motions,
24 good cause must be shown to support a filing under seal. *See Kamakana v. City and*
25 *County of Honolulu*, 447 F.3d 1172, 1176 (9th Cir. 2006), *Phillips v. Gen. Motors*
26 *Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002), *Makar-Welbon v. Sony Electronics,*
27 *Inc.*, 187 F.R.D. 576, 577 (E.D. Wis. 1999) (even stipulated protective orders
28 require good cause showing), and a specific showing of good cause or compelling

1 reasons with proper evidentiary support and legal justification, must be made with
2 respect to Protected Material that a party seeks to file under seal. The Parties' mere
3 designation of Disclosure or Discovery Material as CONFIDENTIAL does not—
4 without the submission of competent evidence by declaration, establishing that the
5 material sought to be filed under seal qualifies as confidential, privileged, or
6 otherwise protectable—constitute good cause.

7 Further, if a party requests sealing related to a dispositive motion or trial, then
8 compelling reasons, not only good cause, for the sealing must be shown, and the
9 relief sought shall be narrowly tailored to serve the specific interest to be protected.
10 *See Pintos v. Pacific Creditors Ass'n*, 605 F.3d 665, 677-79 (9th Cir. 2010). For
11 each item or type of information, document, or thing sought to be filed or introduced
12 under seal in connection with a dispositive motion or trial, the party seeking
13 protection must articulate compelling reasons, supported by specific facts and legal
14 justification, for the requested sealing order. Again, competent evidence supporting
15 the application to file documents under seal must be provided by declaration.

16 Any document that is not confidential, privileged, or otherwise protectable in
17 its entirety will not be filed under seal if the confidential portions can be redacted. If
18 documents can be redacted, then a redacted version for public viewing, omitting
19 only the confidential, privileged, or otherwise protectable portions of the document,
20 shall be filed. Any application that seeks to file documents under seal in their
21 entirety should include an explanation of why redaction is not feasible.

22 23 **D. DEFINITIONS**

24 1. As used herein, the term “confidential information” means:
25 (a) information subject to federal or state privacy rights including private financial
26 information; (b) any type of information that has not been made generally available
27 to the public and the disclosure of which the disclosing party contends would cause
28 harm to the disclosing party's business operations or interests, which could include,

1 but would not be limited to, contracts, customer data, costs of goods or services
2 sold, manufacturing or other costs of doing business, employee personnel
3 information, sales records, inventory sheets, internal policies and procedures, and
4 business strategies; (c) data derived from such confidential information, including
5 any summaries, compilations, quotes, or paraphrases thereof; and (d) any other oral,
6 written, or recorded material that consists of or contains trade secrets (as defined in
7 CALIFORNIA CIVIL CODE § 3426.1(d)) or other confidential research, development,
8 or commercial information and the disclosure of which would result in competitive
9 harm, and for which the designating party has taken reasonable measures to
10 maintain their confidential, non-public status.

11 2. As used herein, the terms “document”, “documents”, “tangible things”,
12 “recordings”, and “photographs” mean documents, writings, tangible things,
13 recordings, and photographs as defined in FED. R. CIV. P. 34(a) and FED. R. EVID.
14 1001, and include, but are not limited to, records, exhibits, reports, samples,
15 transcripts, video or audio recordings, disks, affidavits, briefs, summaries, notes,
16 abstracts, drawings, company records and reports, answers to interrogatories,
17 responses to requests for admissions, and motions, including copies or computer-
18 stored versions of any of the foregoing.

19 20 **E. DESIGNATION OF CONFIDENTIAL INFORMATION**

21 1. This Protective Order applies to all discovery responses, documents,
22 testimony, and other materials containing confidential information disclosed in this
23 action that are designated by a party or any third party as CONFIDENTIAL, in the
24 manner described below, whether such disclosure is by order of the Court, by
25 response to questions in a deposition, written interrogatories, requests for the
26 production of documents and other tangible things, requests for admission, response
27 to a subpoena, or any other discovery undertaken in this action.

1 2. A party that provides information may designate it as confidential only
2 when such party in good faith believes it contains confidential information. A party
3 designating information as confidential should take reasonable care to designate
4 only that information, documents, items or oral or written communications that the
5 party reasonably believes to qualify for protection. If it comes to a party's or a non-
6 party's attention that information or items that it designated for protection do not
7 qualify for protection, that party or non-party should promptly notify all other
8 parties that it is withdrawing the mistaken designation.

9 Any party may protect information it believes constitutes confidential
10 information by designating such information as CONFIDENTIAL prior to or at the
11 time of disclosure of such information. Such designation shall be accomplished by
12 placing the notation CONFIDENTIAL (or some notation essentially equivalent to
13 the phrase CONFIDENTIAL) on every page of each document or portion thereof so
14 designated. In the case of confidential information disclosed in a non-paper medium
15 (e.g., videotape, audiotape, computer disks, etc.), the notation CONFIDENTIAL
16 shall be affixed to the outside of the medium or its container so as to clearly give
17 notice of the designation. Such designation is deemed to apply to the document
18 itself and to the confidential information contained therein.

19 3. Except as set forth in this Protective Order, designated confidential
20 information shall be used solely for the purposes of this litigation and/or related
21 indemnity claims against any party to this litigation and shall not be used for any
22 other purpose, including, without limitation, any business or commercial purpose, or
23 dissemination to the media. Confidential information so designated shall not be
24 disclosed to anyone other than those persons permitted by the Protective Order,
25 except as may be ordered by the Court or agreed to in writing by the producing
26 party. If any information designated by a party as CONFIDENTIAL is thereafter
27 used by a party to which it has been produced or disclosed as part of a paper filed or
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1 lodged with the Court in this action or in a response to a discovery request in this
2 action, the party using that information shall
3 take all reasonable steps to preserve the continued confidentiality of that designated
4 confidential information.

5 4. The Parties shall use reasonable care to avoid designating any materials
6 as CONFIDENTIAL that are (a) not entitled to such designation, or (b) are generally
7 available to the public.

8 5. The terms of this Protective Order shall not apply to or restrict the
9 disclosure or use by a producing party or its counsel of the producing party's own
10 confidential information. The voluntary disclosure of confidential information by a
11 producing party, however, may provide grounds for an opposing party to challenge
12 the confidential designation of the same information pursuant to Section H, below.

13 6. A party serving a subpoena or demanding discovery from any third
14 party shall serve a copy of this Protective Order on the third party concurrently with
15 the subpoena or discovery demand.
16

17 **F. DISCLOSURE OF DESIGNATED CONFIDENTIAL INFORMATION**

18 1. The Parties, counsel for the Parties, and all persons to whom
19 confidential information is disclosed under the terms of this Protective Order shall
20 maintain all designated confidential information in confidence and shall not disclose
21 such information, directly or indirectly, to any person except as provided in this
22 Protective Order.

23 2. Access to information designated as CONFIDENTIAL shall be limited
24 to the following persons:

25 a. The attorneys for the Parties (including both outside counsel and
26 in-house counsel) and their support personnel (*e.g.*, legal assistants and copy
27 services);
28

- 1 b. Current and former employees of the Parties involved in the
2 prosecution or defense of the litigation, and to whom disclosure of the confidential
3 information is reasonably necessary for the purposes of this litigation;
- 4 c. The Court and court personnel of any court having jurisdiction
5 over any proceedings involved in this litigation;
- 6 d. Court reporters, videographers, and their staffs to whom
7 disclosure is reasonably necessary for the purposes of this litigation;
- 8 e. Consultants and experts, who execute the Declaration
9 Confirming Compliance With Stipulated Protective Order Re Confidential
10 Information (“Compliance Declaration”) attached to this Protective Order;
- 11 f. Any current employee, director, agent or FED. R. CIV. P. 30(b)(6)
12 designee of the producing party;
- 13 g. Any former employee of a producing party, who executes the
14 Compliance Declaration, that the disclosing party reasonably and in good faith
15 believes authored, received, or became familiar with the confidential information in
16 the ordinary course of his or her employment by the designating party;
- 17 h. Any author, original source, or prior recipient of the confidential
18 information;
- 19 i. Deposition witnesses who execute the Compliance Declaration
20 attached to this Protective Order;
- 21 j. Any other person or entity as to whom the Parties agree in
22 writing; and
- 23 k. Any other person as to whom the Court orders should have
24 access to the confidential information.

25 3. A copy of any Compliance Declaration executed by any person
26 required under this Protective Order shall be maintained by counsel for the party
27 making the disclosure of another party’s designated confidential information.
28

1 **G. DEPOSITIONS**

2 1. With respect to the examination of witnesses upon oral deposition,
3 when designated confidential information is supplied to the deponent, or when the
4 deponent's testimony contains, reflects, or comments on designated confidential
5 information, the deposition reporter and/or video operator shall be informed of this
6 Protective Order by the party seeking to use or disclose the confidential information.
7 The reporter and/or video operator then shall place on the cover of any deposition
8 transcript or video that contains any designated confidential information the words
9 "CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A COURT
10 PROTECTIVE ORDER." Counsel for the Parties then shall take appropriate steps
11 to prevent any portions of any deposition transcript or video designated
12 CONFIDENTIAL from being disclosed to any person, except as provided in this
13 Protective Order.

14 2. All testimony at a deposition shall be presumed to be designated
15 CONFIDENTIAL if this Protective Order is invoked at the deposition for 60 days
16 after the conclusion of the deposition, until the specific pages of the transcript
17 containing designated confidential information are identified and designated
18 CONFIDENTIAL as provided below. For any CONFIDENTIAL designation
19 thereafter, the designating party shall, within sixty (60) days after the completion of
20 the deposition, provide all Parties with a written list of the page(s) of the deposition
21 transcript, and any exhibits attached thereto, that the party has designated
22 CONFIDENTIAL. Only pages containing confidential information shall be so
23 designated. Any party can challenge any portion of the deposition designated as
24 CONFIDENTIAL at any time, but must first meet and confer with the designating
25 party as to the basis for the challenge before seeking Court intervention.

26 3. If designated confidential information is to be discussed or disclosed in
27 a deposition, any Party claiming such confidentiality may exclude from the room
28 any person who is not entitled to receive such confidential information during that

1 portion of the deposition in which the confidential information is actually discussed
2 or disclosed.

4 **H. CHALLENGING A DESIGNATION**

5 1. The Parties agree that they will actively work to avoid the unnecessary
6 CONFIDENTIAL designation of information produced in discovery in this action.

7 2. In the event that counsel for any party at any time believes that
8 designated confidential information should not be so designated, such counsel shall
9 meet and confer with counsel for the other party in an attempt to resolve the dispute.

10 3. If counsel for the Parties are still unable to resolve the dispute, the non-
11 designating party shall initiate the dispute resolution process under Local Rule 37.1
12 *et seq.* Unless and until an order of this Court sets aside a designation of
13 information as CONFIDENTIAL, all information so designated shall be treated as
14 CONFIDENTIAL pursuant to the terms of this Protective Order.

15 4. The designating party bears the burden of establishing that the
16 documents designated are entitled to protection.

17 5. No party shall be obliged to challenge the propriety of a
18 CONFIDENTIAL designation, and a failure to do so shall not preclude a subsequent
19 attack on the propriety of such designation.

21 **I. INADVERTENT FAILURE TO DESIGNATE**

22 1. The inadvertent failure to designate confidential information as
23 CONFIDENTIAL prior to or at the time of disclosure shall not operate as a waiver
24 of a party's right to designate such information as CONFIDENTIAL after such
25 disclosure.

26 2. In the event that confidential information is designated as
27 CONFIDENTIAL after disclosure, the receiving party shall employ reasonable
28

1 efforts to ensure that all previously disclosed information is subsequently treated as
2 CONFIDENTIAL, as appropriate, pursuant to the terms of this Protective Order.

3 3. Should any document or information designated as CONFIDENTIAL
4 be disclosed, through inadvertence or otherwise, to any person or party not
5 authorized to see such materials under this Protective Order, then the disclosing
6 party shall immediately procure the return of the material, and inform counsel for
7 the designating party whose confidential information has thus been disclosed of all
8 relevant information concerning the nature and circumstances of such disclosure.
9 The disclosing party shall also take all reasonable measures promptly to ensure that
10 no further or greater unauthorized disclosure of the Confidential Information occurs.

11
12 **J. CUSTODY AND DISPOSITION OF CONFIDENTIAL**
13 **INFORMATION**

14 1. Confidential information designated CONFIDENTIAL shall be
15 maintained in the custody of counsel for the Parties, except for information in the
16 custody of: (a) the Court; (b) any court reporter transcribing testimony given in this
17 action, for the limited purpose of rendering his or her normal transcribing services;
18 and (c) persons to whom the confidential information may be disclosed pursuant to
19 the terms of the Protective Order, including consultants and experts, to the extent
20 necessary for their involvement in the litigation. Except for the Court, a person with
21 custody of information designated CONFIDENTIAL shall maintain it in a manner
22 that limits access to it to only those persons entitled under this Protective Order to
23 examine it.

24 2. Unless agreed otherwise in writing, at the conclusion of this litigation,
25 whether by settlement or final decision of the Court of last resort, the Parties,
26 counsel for the Parties, and all persons who executed the Compliance Declaration
27 agree that they will destroy or return to the producing party all copies of any
28 documents, other than attorney work product, containing designated confidential

1 information produced by a party. Notwithstanding the foregoing, counsel of record
2 shall be permitted to retain a file copy of all pre-trial, trial, and post-trial materials,
3 depositions and deposition exhibits, and document databases. Such file copies must
4 be maintained under the conditions of maintaining CONFIDENTIAL documents as
5 set forth above.

6
7 **K. MISCELLANEOUS PROVISIONS**

8 1. The provisions of this Protective Order apply to all proceedings in this
9 action, including all appeals, arbitrations, mediations, and proceedings upon remand,
10 unless the matter proceeds to trial. The Parties will work with the Court to
11 determine whether evidence proffered at trial should continue to be treated as
12 CONFIDENTIAL and, if so, what protection, if any, may be afforded to such
13 information at trial.

14 2. A designation of confidentiality pursuant to this Protective Order shall
15 be effective and shall be respected by the Parties and all persons in any way
16 involved in these proceedings or to whose attention confidential information shall
17 come unless and until otherwise ordered by the Court or stipulated by the Parties.
18 These obligations of confidentiality and non-disclosure shall survive the conclusion
19 of this action unless and until otherwise ordered by the Court, or until the producing
20 party stipulates that designated confidential information may be disclosed.

21 3. By entering into this Protective Order, no party waives any objections it
22 might have to the production of documents covered by this Protective Order.

23 4. No party to this action, by entering into this Protective Order, by
24 designating certain information as CONFIDENTIAL, or by acquiescing in any other
25 party's designation, shall be deemed to have admitted or agreed that any such
26 designated information is, in fact, private financial information, proprietary
27 information, a trade secret or other confidential research, development, or
28 commercial information.

1 5. The Court shall retain jurisdiction for one year after the termination of
2 this action to enforce this Protective Order and to make such deletions from or
3 amendments, modifications, and additions to the Protective Order as the Court may
4 from time to time deem appropriate. The Parties, and any producing party, reserve
5 all rights to apply to the Court at any time, before or after termination of this action,
6 for an order modifying this Protective Order or seeking further protection against
7 disclosure or use of claimed confidential information.

8 6. The Court may modify the terms and conditions of the Protective Order
9 for good cause, or in the interest of justice, or on its own order at any time in these
10 proceedings.

11 Pursuant to L.R. 5-4.3.4, I, Alejandro E. Moreno, attests that Tiffany N. Buda,
12 Corey Garrard and Alan G. Ross concur in the filing's content and have authorized
13 this filing.

14
15 Dated: April 1, 2019 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

16
17 Bv /s/Alejandro E. Moreno
18 EDWARD D. VOGEL
19 ALEJANDRO E. MORENO
20 Attorneys for Defendant
21 WELLS FARGO BANK, N.A.

22 Dated: April 1, 2019 WINGERT GREBING BRUBAKER & JUSKIE LLP

23 Bv /s/Stephen Grebing
24 STEPHEN GREBING
25 COREY C. GARRAD
26 Attorneys for Defendant
27 XOME FIELD SERVICES, LLC
28

ROSS & WERSCHING LLP

Attorneys for Defendant
SERVICELINK NLS, LLC

LEXICON LAW PC

Attorneys for Plaintiff
ORIANA PARKS

CERTIFICATION

Counsel for defendant Wells Fargo Bank, N.A. certifies that the contents of this document are acceptable to all persons required to sign the document.

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

Attorneys for Defendant
WELLS FARGO BANK, N.A.

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Rozella n. Oei

HON. ROZELLA A. OLIVER
UNITED STATES MAGISTRATE JUDGE

1 **DECLARATION CONFIRMING COMPLIANCE WITH STIPULATED**
2 **PROTECTIVE ORDER RE CONFIDENTIAL INFORMATION**

3
4 I, _____, hereby declare:

5
6 1. My address is _____.

7 My telephone number is (_____) _____ - _____.

8
9 2. I have read, understand and agree to be bound by the terms of the
10 Stipulated Protective Order Re Confidential Information (“Protective Order”),
11 entered in this action, *Oriana Parks v. Wells Fargo Bank, N.A.*. Case No. 2:19-cv-
12 00588 JFW (RAOx), in the United States District Court, Central District of
13 California.

14
15 3. I understand that this Protective Order requires me not to
16 disclose any information designated as CONFIDENTIAL, which is provided to me
17 in the course of my involvement in this litigation, to any person not authorized by
18 this Protective Order to receive such information.

19
20 4. I agree that I shall return or destroy all documents containing any
21 information designated as CONFIDENTIAL that have been provided to me,
22 together with any work product including such information designated as
23 CONFIDENTIAL, upon demand by the Court or the counsel or party who furnished
24 such information to me.

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5. I consent to the jurisdiction of the United States District Court for the Central District of California with respect to any actions of any kind whatsoever relative to the enforcement of the Protective Order.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on _____, 20__ at _____ (city), _____ (state).

Signature